

Senate File 474 - Introduced

SENATE FILE 474

BY RAGAN

A BILL FOR

1 An Act relating to trusts for persons with disabilities.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12I.1, subsection 2, paragraphs b and g,
2 Code 2021, are amended to read as follows:

3 *b. "Account owner" means an individual who enters into is*
4 *the designated beneficiary under a participation agreement*
5 *under this chapter for the payment of qualified disability*
6 *expenses on behalf of a the designated beneficiary.*

7 *g. "Participation agreement" means an agreement between*
8 *the account owner and establishing an account with the trust*
9 *entered into under this chapter.*

10 Sec. 2. Section 12I.2, subsection 7, Code 2021, is amended
11 to read as follows:

12 7. Enter into participation agreements with account owners.

13 Sec. 3. Section 12I.3, unnumbered paragraph 1, Code 2021,
14 is amended to read as follows:

15 On or after July 1, 2016, the trust may enter into
16 participation agreements with account owners pursuant to the
17 following terms and agreements:

18 Sec. 4. Section 12I.3, subsection 1, paragraph b, Code 2021,
19 is amended to read as follows:

20 *b. Unless otherwise permitted under section 529A of the*
21 *Internal Revenue Code, the account owner must also be the*
22 *designated beneficiary of the account. However, a trustee or*
23 *legal guardian may be designated as custodian of an account for*
24 *a designated beneficiary who is a minor or who lacks capacity*
25 *to enter into a participation agreement if such designation*
26 *is not prohibited under section 529A of the Internal Revenue*
27 *Code. A person other than the account owner may enter into*
28 *a participation agreement and have signature authority over*
29 *the account on behalf of the account owner in accordance with*
30 *section 529A of the Internal Revenue Code and regulations*
31 *promulgated under that section.*

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to trusts for persons with disabilities.

1 The bill amends provisions under Code chapter 12I
2 (disabilities expenses savings plan trust), also known as the
3 Iowa ABLE savings plan trust, relating to persons eligible
4 to enter into a participation agreement and have signature
5 authority over an account on behalf of an eligible individual.

6 The Internal Revenue Code final regulations for qualified
7 ABLE programs published November 19, 2020, in part, broadened
8 the categories of people who may establish an ABLE account
9 for an eligible individual to provide greater flexibility
10 and reduce the burden on the eligible individual. The
11 final regulations permit an ABLE account to be established
12 by the eligible individual, a person selected by the
13 eligible individual, or if the eligible individual is
14 unable to establish the individual's own account, by the
15 individual's agent under a power of attorney or, if none, by
16 a conservator or legal guardian, spouse, parent, sibling,
17 grandparent, or a representative payee appointed by the
18 Social Security Administration, in that order. Additionally,
19 the final regulations allow the ABLE program to rely on
20 self-certification of the individual establishing the
21 account for their basis of authority and priority. The final
22 regulations also provide for signatory authority over the ABLE
23 account by the designated beneficiary, an individual other than
24 the designated beneficiary who establishes the account, or a
25 person selected by the beneficiary.

26 The bill provides that a person other than the account owner
27 may enter into a participation agreement and have signature
28 authority over the account on behalf of the account owner in
29 accordance with the Internal Revenue Code and regulations
30 promulgated under federal law.

31 The disabilities expenses savings plan trust is also known
32 as the Iowa ABLE savings plan trust which was established as
33 a qualified ABLE program under section 529A of the Internal
34 Revenue Code. The purpose of ABLE savings accounts is to
35 encourage and assist individuals and families in saving

1 private funds for the purpose of supporting individuals with
2 disabilities to maintain health, independence, and quality
3 of life and to provide secure funding for disability-related
4 expenses on behalf of designated beneficiaries with
5 disabilities that will supplement, but not supplant, benefits
6 provided through private insurance, the Medicaid program,
7 the federal supplemental security income program, and other
8 sources. ABLE savings accounts allow eligible individuals the
9 opportunity to save and fund a variety of qualified disability
10 expenses without endangering eligibility for certain benefits
11 such as Medicaid and supplemental security income.